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BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

JAN 30 1995

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Petition of the People of the State ) PR Doc. No. 94-105  
of California and the Public Utilities )  
Commission of the State of California )  
To Retain Regulatory Authority Over )  
Intrastate Cellular Service Rates )

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COMMENTS OF THE  
CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION  
IN RESPONSE TO THE COMMISSION'S JANUARY 25, 1995 ORDER

The Cellular Telecommunications Industry Association ("CTIA")<sup>1</sup> respectfully submits these brief comments in response to the Commission's January 25, 1995 Order in this docket inviting CTIA to file the raw data underlying the affidavit of economist Jerry Hausman.<sup>2</sup>

The Commission has granted CTIA just five days (and only three business days) to submit the confidential carrier and market specific data underlying the Hausman affidavit. As CTIA previously advised the Commission, it has neither

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<sup>1</sup> CTIA is a trade association whose members provide commercial mobile radio services, including over 95 percent of the licensees providing cellular service to the United States, Canada, Mexico, and the nation's largest providers of ESMR service. CTIA's membership also includes wireless equipment manufacturers, support service providers, and others with an interest in the wireless industry.

<sup>2</sup> Order, PR Docket No. 94-105 (released January 25, 1995), at ¶ 48.

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custody nor control of the raw data at issue, which CTIA's member carriers provided directly to Dr. Hausman.<sup>3</sup> CTIA is unable to obtain the consent of the individual carriers who submitted their data directly to Dr. Hausman (predicated on a commitment that all market specific data would remain confidential) in the exceedingly short filing window set forth in the Order.

In paragraph 38 of the Order, the Commission states that "the absence of these supporting materials from the record substantially discounts the weight to be accorded Hausman's analysis." The Commission then states that without the underlying data, it will not consider Hausman's analysis in its substantive review of California's petition.<sup>4</sup>

CTIA respectfully submits that even without access to the underlying data, there is no basis for the Commission's decision to exclude the Hausman affidavit from its substantive review in this docket. CTIA submitted the Hausman affidavit with its comments in this docket. Thus, the Hausman study is in the public record. The absence of the underlying raw data has not denied any party the opportunity to comment on the reliability of the Hausman

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<sup>3</sup> *Id.*, at ¶ 36.

<sup>4</sup> *Id.*, at ¶ 38.

affidavit. The Commission has not hesitated in other matters to rely on such aggregated analyses of raw data where access to the raw data is unavailable to it, provided of course that the aggregated analysis is otherwise available for comment.<sup>5</sup>

Dr. Hausman has described fully his methodology in the appendices to his affidavit.<sup>6</sup> The California PUC has long had access to the relevant data for the California markets here at issue, and the sources Dr. Hausman identified as the basis of his other data.<sup>7</sup> Thus, the California PUC is fully able to submit its own analysis to the Commission. The other parties to this proceeding also can use market and carrier specific data available to them through the new Protective Order to rebut the Hausman affidavit with respect

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<sup>5</sup> For example, at this month's January 16, 1995 Open Meeting, Chairman Hundt stated that the FCC would rely on aggregated data submitted by the Network Reliability Council, even though carrier-specific raw data would be submitted only to Bellcore and no unaggregated data would be available to the Commission.

<sup>6</sup> Each Appendix to Professor Hausman's affidavit describes a separate regression analysis, specifying, *inter alia*, the variable, estimate, standard error, and R squared analysis.

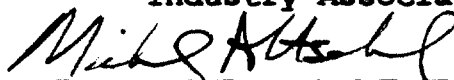
<sup>7</sup> *I.e.*, per capita personal income: Survey of Current Business, April 1992 or NPA Data Services; population: 1992 Statistical Abstract or NPA Data Services; mean commute time from home to work: 1990 U.S. Census, Tape File 3c. See Hausman Affidavit, Notes to Appendices.

to the level of competition and the effectiveness of regulation in California.<sup>8</sup>

As with all information in the record, the Commission must determine the proper weight to accord the Hausman affidavit. CTIA submits, however, that there is no basis to exclude the Hausman analysis from consideration in this docket, and absent any challenge to its veracity, the Commission should rely on the Hausman analysis as demonstrating that the Petition of the California PUC has failed to meet the standard set forth by Congress and the FCC for continued regulation of commercial mobile radio service providers in California.

Respectfully submitted,

**Cellular Telecommunications  
Industry Association**



Michael F. Altschul  
Vice President and General Counsel

1250 Connecticut Avenue, N.W.  
Suite 200  
Washington, D.C. 20036

January 30, 1995

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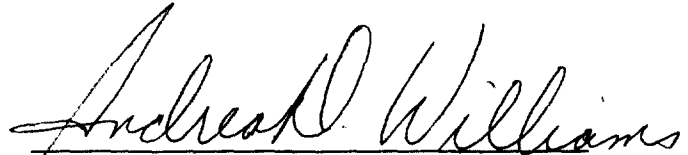
<sup>8</sup> This, of course, is precisely what the Commission has indicated as being relevant to its consideration of the California petition.

**CERTIFICATE OF SERVICE**

I, Andrea D. Williams, hereby certify that on this 30th day of January, 1995 copies of the foregoing Comments of the Cellular Telecommunications Industry Association were served by hand delivery upon the following parties:

Mr. William Caton  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

International Transcript Service  
1919 M Street, N.W., Room 246  
Washington, D.C. 20554

  
Andrea D. Williams

## **CERTIFICATE OF SERVICE**

I, Andrea D. Williams, hereby certify that on this 30th day of January, 1995 copies of the foregoing Comments of the Cellular Telecommunications Industry Association were sent by U.S. mail, postage prepaid to the following parties:

State of California  
Public Utilities Commission  
Peter Arth, Jr., Esq.  
Edward W. O'Neill, Esq.  
Ellen S. LeVine, Esq.  
505 Van Ness Avenue  
San Francisco, California 94102

National Cellular Resellers Association  
Joel H. Levy  
William B. Wilhelm, Jr.  
Cohn and Marks  
1333 New Hampshire Avenue, N.W.  
Suite 600  
Washington, D.C. 20036

AirTouch Communications  
David A. Gross, Esq.  
Kathleen Q. Abernathy, Esq.  
1818 N Street, N.W.  
8th Floor  
Washington, D.C. 20036

GTE Service Corporation  
William J. Sill  
R. Bradley Koerner  
McFadden, Evans and Sill  
1627 Eye Street, N.W.  
Suite 810  
Washington, D.C. 20006

Mary B. Cranston, Esquire  
Megan Waters Pierson, Esquire  
Joseph A. Hearst, Esquire  
Pillsbury Madison & Sutro  
P.O. Box 7880  
San Francisco, CA 94120-7880  
Attorneys for AirTouch Communications

Alan R. Shark, President  
American Mobile Telecommunications  
Association, Inc.  
1150 18th Street, N.W.  
Suite 250  
Washington, D.C. 20036

Elizabeth R. Sachs, Esquire  
Lukas, McGowan, Nace & Gutierrez  
1111 19th Street, N.W.  
Suite 1200  
Washington, D.C. 20036  
Attorney for American Mobile  
Telecommunications Association, Inc.

David A. Simpson, Esquire  
Young, Vogl, Harlick & Wilson  
425 California Street  
Suite 2500  
San Francisco, CA 94101  
Attorney for Bakersfield Cellular  
Telephone Company

Adam A. Anderson, Esquire  
Suzanne Toller, Esquire  
Bay Area Cellular Telephone  
Company  
651 Gateway Boulevard  
Suite 1500  
South San Francisco, CA 94080

Richard Hansen, Chairman of  
Cellular Agents Trade  
Association  
11268 Washington Blvd.  
Suite 201  
Culver City, CA 90230

Michael B. Day, Esquire  
Jeanne M. Bennett, Esquire  
Michael J. Thompson, Esquire  
Jerome F. Candelaria, Esquire  
Wright & Talisman, P.C.  
100 Bush Street  
Shell Building, Suite 225  
San Francisco, CA 94104  
Attorneys for Cellular Carriers  
Association of California

Mark Gascoigne  
Dennis Shelley  
Information Technology Service  
Internal Services Department  
County of Los Angeles  
9150 East Imperial Highway  
Downey, California 90242  
Attorneys for County of Los Angeles

Russell H. Fox, Esquire  
Susan H.R. Jones, Esquire  
Gardner, Carton & Douglas  
1301 K Street, N.W.  
Suite 900, East Tower  
Washington, D.C. 20005  
Attorneys for E.F. Johnson Company

David M. Wilson, Esquire  
Young, Vogl, Harlick & Wilson  
425 California Street  
Suite 2500  
San Francisco, CA 94104  
Attorney for Los Angeles Cellular  
Telephone Company

Scott K. Morris  
Vice President of External Affairs  
McCaw Cellular Communications, Inc.  
5400 Carillon Point  
Kirkland, Washington 98033



Howard J. Symons, Esquire  
James A. Kirkland, Esquire  
Cherie R. Kiser, Esquire  
Kecia Boney, Esquire  
Tara M. Corvo, Esquire  
Mintz, Levin, Cohn, Ferris,  
Glovsky and Popeo, P.C.  
Suite 900  
701 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Attorneys for McCaw Cellular  
Communications, Inc.

James M. Tobin, Esquire  
Mary E. Wand, Esquire  
Morrison & Foerster  
345 California Street  
San Francisco, CA 94104-2576  
Attorneys for McCaw Cellular  
Communications, Inc.

Thomas Gutierrez, Esquire  
J. Justin McClure, Esquire  
Lukas, McGowan, Nace &  
Gutierrez, Chartered  
1111 Nineteenth Street, N.W.  
Suite 1200  
Washington, D.C. 20036  
Attorneys for Mobile Telecommunications  
Technologies Corp.

Jeffrey S. Bork, Esquire  
Laurie Bennett, Esquire  
U.S. West Cellular of California, Inc.  
1801 California Street  
Suite 5100  
Denver, CO 80202

Leonard J. Kennedy  
Laura H. Phillips  
Richard S. Denning  
Dow, Lohnes & Albertson  
1255 23rd Street, N.W.  
Washington, D.C. 20037  
Attorneys for Nextel Communications, Inc.

Mark J. Golden, Acting President  
Personal Communications Industry  
Association  
1019 Nineteenth Street, N.W.  
Suite 1100  
Washington, D.C. 20036

Michael Shames, Esquire  
1717 Kettner Blvd. Suite 105  
San Diego, CA 92101  
Attorney for Utility Consumer's Action  
Network and Towards Utility Rate  
Normalization

Peter A. Casciato  
A Professional Corporation  
Suite 701  
8 California Street  
San Francisco, California 94111

Lewis J. Paper  
Keck, Mahin & Cate  
1201 New York Avenue, N.W.  
Washington, D.C. 20005  
Attorneys for Cellular Resellers  
Association, Inc., Cellular Service, Inc.,  
and ComTech, Inc.

Judith St. Ledger - Roty, Esquire  
James J. Freeman, Esquire  
Reed, Smith, Shaw & McClay  
1200 18th Street, N.W.  
Washington, D.C. 20036  
Attorneys for Paging Network, Inc.

A handwritten signature in cursive script, reading "Andrea D. Williams". The signature is written in dark ink and is positioned above the printed name.

Andrea D. Williams